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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/942,161

08/29/2001

David Glazer

7663-5000

6819

28765

7590

08/06/2008

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

EXAMINER

PAULA, CESAR B

ART UNIT

PAPER NUMBER

2178

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/942,161 | Applicant(s) GLAZER ET AL. | |
| | Examiner CESAR B. PAULA | Art Unit 2178 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 10, 12-18, 23, 25, 26, 28, 30-36, 41, 43, 45, 47, 49-55, 60 and 62-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 10, 12-18, 23, 25, 26, 28, 30-36, 41, 43, 45, 47, 49-55, 60 and 62-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the RCE amendment filed on 5/22/2008.

This action is made Final.

2. In the amendment, claims 91-90 have been added. Claims 4, 10, 12-18, 23, 25-26, 28, 30-36, 41, 43, 45, 47, 49-55, 60, and 62-90 are pending in the case. Claims 63-65 are independent claims.

Priority

3. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. 119(e), and based on U.S provisional application # 60/228,853 filed on 8/29/2000, which papers have been placed of record in the file.

Drawings

4. The drawings filed on 8/29/2001 have been approved by the examiner.

Claim Rejections - 35 USC § 112

5. The rejections of claims 4, 10, 12-18, 23, 25-26, 28, 30-36, 41, 43, 45, 47, 49-55, 60, and 62-80 are rejected under 35 U.S.C. 112, first paragraph, have been withdrawn as necessitated by the amendment.

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 4, 10, 12-18, 23, 25-26, 28, 30-36, 41, 43, 45, 47, 49-55, 60, and 62-90 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 63 recites 'the requested participant can be' in 2nd line to last. It is not clear from this language whether this limitation takes place or no, since it is implied that there is the potential of it taking place, but not necessarily so.

8. Claim 63 recites 'the percentage' in 2nd line to last. There is insufficient antecedent basis for this limitation in the claim. There is no previous antecedent for this phrase in the claim to refer to.

9. Claims 64-65 are rejected for including similar limitations to that of claim 63 above.

10. The rejections of claims 4, 10, 12-18, 23, 25-26, 28, 30-36, 41, 43, 45, 47, 49-55, 60, and 62-80 are rejected under 35 U.S.C. 112, second paragraph, , have been withdrawn as necessitated by the amendment.

Claim Rejections - 35 USC § 101

11. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: While the original specification refers to a system, it fails to provide antecedent basis for the terms "computer-readable medium" as used in claim 65.

Allowable Subject Matter

13. Claims 4, 10, 12-18, 23, 25-26, 28, 30-36, 41, 43, 45, 47, 49-55, 60, and 62, 66-80 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments with respect to claims 4, 10, 12-18, 23, 25-26, 28, 30-36, 41, 43, 45, 47, 49-55, 60, and 62-90 have been considered but are moot in light of the objections/rejections above.

Conclusion

15. This application is in condition for allowance except for the following formal matters:
As found above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

I. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cesar B. Paula whose telephone number is (571) 272-4128. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:00 p.m. (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong, can be reached on (571) 272-4124. However, in such a case, please allow at least one business day.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://portal.uspto.gov/external/portal/pair>. Should you have any questions about access to the Private PAIR system, please contact the Electronic Business Center (EBC) at 866 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, please call 800-786-9199 or 571 272-1000 (USA or Canada).

Any response to this Action should be mailed to:
Commissioner for Patents
P.O. Box 1450

Application/Control Number: 09/942,161

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Alexandria, VA 22313-1450

Or faxed to:

- **(571)-273-8300** (for **all** Formal communications intended for entry)

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| | /CESAR B PAULA/ Primary Examiner, Art Unit 2178 |
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8/7/2008